

**NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK**

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, January 24th, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for information gathering are:

1. John V. Cacciola and Andrea Christensen who are seeking a variance for an existing shed on their property located at 49 Eberle Rd.
2. Jonah Trager/Scott Longstreet who are seeking an interpretation of the Zoning Code regarding the Public Assemblies law.

Any other matters that come before the Board will also be heard.

Dated January 10, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
JANUARY 24, 2013**

**ZONING BOARD OF APPEALS
DRAFT COPY**

Members Present:

Jeff Lick
David Everett, Chairman
JP Henkel
Bob Leary
Adrian Ooms
Mitchell Khosrova
Walt Simonsmeier, ZEO

Members Absent:

Kary Jablonka

Public Present:

Andrea Christensen
Sally Simmons
David Van de Sande

The January 24, 2013, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00 PM. The Pledge of Allegiance was recited. JP Henkel moved and Jeff Lick seconded that the meeting minutes from October be accepted. This carried. A thank you note from Joe Rickert's family thanking the board for their assistance during their daughter's recent surgery was read.

**JOHN CACCIOLA/ANDREA CHRISTENSEN- AREA VARIANCE
REQUEST WHICH WOULD ALLOW A SHED TO REMAIN ON THE
PROPERTY THAT DOES NOT MEET SETBACKS ON EBERLE RD.**

Ms. Christensen was thanked for rescheduling this project from last month due to inclement weather. ZEO Walt Simonsmeier stated that a C/O search for this property had been requested as it was being sold. Going through the records, it was discovered that a 10'x20' shed had been erected without a permit. A letter was sent to the then-owner and the abstract company regarding this, but nothing was done. Hence, the new owners inherited this violation. The neighbor next door also has a shed, but the ZBA had approved a variance for that one about 3 years ago. The applicant had measured the distance and found that a 22' variance on the front and a 23' variance on the side are required. A letter was read from Arlene Oldrich, the neighbor on whose side this shed is placed, stating that she has no objection to this shed. The Board will require a survey of the property to ascertain exact distances. The Public Hearing was set for the next meeting if the survey is available.

**MARTIN AND KAREN COOPER/SALLY SIMMONS- AREA
VARIANCE REQUEST ON PROPERTY ON DEPOT LANE WHICH
WILL THEN PERMIT A SUBDIVISION (LOT-LINE ADJUSTMENT)**

Ms. Simmons reported that the cellar doors on her house are actually on her neighbor's (Simmons) property. What they would like to do is move the property line on that side back 3.6 feet, which will then allow her to own her basement doors and have space to service (lawn mow, pick up leaves, etc.) this property. By doing the line this way, it will clear the eaves of the neighbor's shed, but an easement will also be included so the owners of the property will have easy access.

Chairman David Everett asked if they were under advisement of a lawyer, because one way to mitigate this situation without needing first a variance and then a subdivision (lot line adjustment) would be to have an easement prepared. The applicant would like to go ahead with this procedure. The Board would like to see the draft deed with the metes and bounds and the exact shed location so the extent of the variance is clear. Ms. Simmons asked if it would be all right to notify the adjacent property owners within 500' of her property only, as the Cooper property is over 7 acres. The Board deemed this to be a reasonable request. The Public Hearing will be set for next month.

David Everett moved, and Bob Leary seconded that the meeting be adjourned. The meeting ended at 7:32PM.

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

**NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK**

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, February 28, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for Public Hearings are:

1. John V. Cacciola and Andrea Christensen who are seeking a variance for an existing shed on their property located at 49 Eberle Rd.
2. Martin and Karen Cooper and Sally Simmons who are seeking an area variance which would then allow a request for a subdivision (lot-line adjustment) on their properties on Depot Lane.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application materials are also available at the Town Hall located at the address specified above. (Hours: Tuesday 9AM-noon and Thursday 2-5PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before February 26.

Any other matters that come before the Board will also be heard.

Dated February 14, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
FEBRUARY 28, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

David Everett, Chairman
JP Henkel
Bob Leary
Mitchell Khosrova
Adrian Ooms
Walt Simonsmeier, ZEO
Tal Rappleyea, Esq.

Members Absent:

Kary Jablonka
Jeff Lick

Public Present:

Andrea Christensen
John Cacciola
Sally Simmons
David Swak
Arlene Oldrich
Ed Oldrich

The February 28, 2013, Zoning Board of Appeals meeting was called to order at 7:00pm by Chairman David Everett. The Pledge of Allegiance was recited. Chairman Everett tabled the minutes of the January 24, 2013 until all members have had a chance to review them. The clerk will email the minutes to the members.

**PUBLIC HEARING-JOHN CACCIOLA/ ANDREA CHRISTENSEN- AREA VARIANCE
FOR FRONT AND SIDE YARD SETBACKS FOR AN EXISTING SHED**

A Survey map of the property showing an existing 10 x 20ft. shed on property located at 49 Eberle Road was presented to each Board member. The previous owners of this property had erected this shed without a permit unbeknownst to Mr. Cacciola and Ms. Christensen who had purchased this property in 2010. Mr. Cacciola and Ms. Christensen would like to keep the shed on their property and have asked for an area variance of the front and side yard setbacks. Neighbors Ed and Arlene Oldrich sent a letter in approval of the shed. ZEO Walt Simonsmeier stated that the shed, which is under 200 square feet, has a front yard setback of 24.5 feet which should be 50 feet with a 10 foot side yard setback. The shed is currently 7 inches from the property line. Postal receipts were submitted to the Board.

Mitchell Khosrova made a motion to open the Public Hearing at 7:02 pm. No comments were made from the public. Bob Leary made a motion to close the Public Hearing at 7:03 pm, motion carried. Adrian Ooms made a motion to approve the Area Variance as requested with a front yard variance of 25.5ft and a side yard variance of 6.3 ft. Mitchell Khosrova seconded the motion, carried.

**TOWN OF CHATHAM
FEBRUARY 28, 2013**

**ZONING BOARD OF APPEALS
DRAFT COPY**

Members Present:

David Everett, Chairman
JP Henkel
Bob Leary
Mitchell Khosrova
Adrian Ooms
Walt Simonsmeier, ZEO
Tal Rappleyea, Esq.

Members Absent:

Kary Jablonka
Jeff Lick

Public Present:

Andrea Christensen
John Cacciola
Sally Simmons
David Swak
Arlene Oldrich
Ed Oldrich

The February 28, 2013, Zoning Board of Appeals meeting was called to order at 7:00pm by Chairman David Everett. The Pledge of Allegiance was recited. Chairman Everett tabled the minutes of the January 24, 2013 until all members have had a chance to review them. The clerk will email the minutes to the members.

JOHN CACCIOLA/ ANDREA CHRISTENSEN- AREA VARIANCE FOR FRONT AND SIDE YARD SETBACKS FOR AN EXISTING SHED

A Survey map of the property showing an existing 10 x 20ft. shed on property located at 49 Eberle Road was presented to each Board member. The previous owners of this property had erected this shed without a permit unbeknownst to Mr. Cacciola and Ms. Christensen who had purchased this property in 2010. Mr. Cacciola and Ms. Christensen would like to keep the shed on their property and have asked for an area variance of the front and side yard setbacks. Neighbors Ed and Arlene Oldrich sent a letter in approval of the shed. ZEO Walt Simonsmeier stated that the shed, which is under 260 square feet, has a front yard setback of 24.5 feet which should be 50 feet with a 10 foot side yard setback. The shed is currently 7 inches from the property line. Postal receipts were submitted to the Board.

Mitchell Khosrova made a motion to open the Public Hearing at 7:02 pm. Adrian Ooms made a motion to approve the Area Variance as requested with a front yard variance of 25.5ft and a side yard variance of 6.3 ft. Mitchell Khosrova seconded the motion, carried. Bob Leary made a motion to close the Public Hearing at 7:03 pm, motion carried.

PUBLIC HEARING-MARTIN AND KAREN COOPER/SALLY SIMMONS- AREA VARIANCE FOR A LOT SUBDIVISION (LOT-LINE ADJUSTMENT) FOR PROPERTY LOCATED ON DEPOT LANE

Ms. Simmons is seeking an Area Variance for a lot-line adjustment to allow her property line to clear the eaves of the neighbor's shed and to include an easement so the owner's of the property will have easier access. Ms. Simmons stated that there is a change to the deed but there is no change to the language for the easement other than to only use the sliver of land. Postal receipts were presented to the Board. Bob Leary made a motion to open the Public Hearing at 7:08 pm, JP Henkel seconded the motion carried. There were no comments from the public. Mitchell Khosrova made a motion to close the Public Hearing at 7:09 pm, JP Henkel seconded the motion, carried.

Chairman Everett stated that he would approve this application conditionally provided that a signed copy of the filed deed is submitted to the Board showing that the easement has gone in to effect. Attorney Rappleyea commented that it is appropriate to grant the variance based on the survey map. Chairman Everett made a motion to grant the Area Variance as depicted on the submitted survey map prepared by Dan Russell conditioned upon the submission of the filed easement to the ZBA. Bob Leary seconded the motion, carried. Ms. Simmons paid the \$50 approval fee.

HARVEY & GABRIELLA SPERRY- REQUEST FOR SPECIAL USE PERMIT FOR STORAGE OF TRAVEL TRAILER CAMP.

Mr. Sperry presented the Board with an aerial view of the site plan of his property on Jefferson Hill Road. Mr. Sperry stated that his objective was to take his 198x50 foot heated metal clad pole barn and make use of it after it has been empty for the last 5 years. He would like to sell storage space for 40x13 foot travel trailers (RV's) in this barn and he is requesting a Special Use Permit. This property is zoned as an RL1 but is listed as an RL2 on the application. Doors have been previously added to this 12 bay barn where Mr. Sperry had conducted a compost business in the past. There is gravel on top of shale in front of this barn. Mr. Sperry stated that the model for this project came from a chicken farm business in Pennsylvania which has since folded and the building is now used for storage. This barn will be heated by 2 propane MODEEN heaters in the roof of the building. Attorney Rappleyea stated that this is an adaptive re-use of buildings as noted in the Comprehensive Plan. Chairman Everett asked Mr. Sperry if this building would be used for anything other than RV's such as agricultural equipment which would need to be brought before Mr. Simonsmeier. Mr. Sperry commented that possibly in the future they may store other items. Mr. Sperry stated that there will be fire extinguishers in the building and each owner will have their own key and he will have a master key. Attorney Rappleyea explained that the Law that was enacted and filed in 2011 was amended and there is no definition in the Zoning

Code to determine if travel trailers are allowed or not. Mitchell Khosrova would like to have a survey map from Mr. Sperry to identify which building is being considered and it's location on the 78 acre sub-division lot. This project will need to go before the Planning Board for site plan approval and a short form SEQR will need to be filed. A Public Hearing approving a Special Use Permit for a Travel Trailer Camp for Indoor Storage will be held on March 28, 2013.

Mitchell Khosrova made a motion to adjourn the meeting at 7:45 pm, Bob Leary seconded the motion, carried.

David Everett, Chairman

Respectfully Submitted,

Barbara A. Fischer, Clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: February 28, 2013

Committee/Board: Zoning Board of Appeals

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Andrew Christensen
2. John Caccidola
3. Sally Simmons
4. Paula de Lencastre
5. Arlene Oldrich
6. Ed Oldrich
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NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, March 28, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for a Public Hearing is:

1. Harvey & Gabriella Sperry who are requesting a Special Use Permit to allow storage of recreational vehicles in an enclosed building on their property located on Jefferson Hill Rd.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before March 28.

On the agenda for information gathering is Kevin Scheriff requesting an Area Variance for a side yard setback for a proposed 30'x28' garage for property located on Harmon Heights Road.

Any other matters that come before the Board will also be heard.

Dated March 18, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
MARCH 28, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

David Everett, Chairman
Mitchell Khosrova
Robert Leary
JP Henkel
Jeff Lick
Adrian Ooms
Kary Jablonka
Tal Rappleyea, Atty.
Walt Simonsmeier, ZEO

Members Absent:

None

Public Present:

Karen Scheriff
Kevin Scheriff
Mark Greenburg

The March 28, 2013, Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Robert Leary moved and Adrian Ooms seconded that the February minutes be adopted. This carried with Jeff Lick abstaining. Mitchell Khosrova moved and Jeff Lick seconded that the January meeting minutes be accepted. This carried with Kary Jablonka abstaining.

HARVEY AND GABRIELLA SPERRY- REQUEST FOR A SPECIAL USE PERMIT TO ALLOW ONE BUILDING ON THEIR PROPERTY ON JEFFERSON HILL RD. TO BE USED TO STORE RECREATIONAL VEHICLES

PUBLIC HEARING

Mr. Sperry reviewed his proposal---to operate a heated facility for motor homes and travel trailers within a 12 bay building. Postal receipts were turned in, and the survey was presented. It was clarified that a Special Use permit runs with the property, but in this instance only one building on the property is being approved for indoor storage of the aforementioned vehicles.

The Public Hearing was opened at 7:04PM. Mark Greenburg, an adjoining property holder, expressed concern that his property is near one possible route of travel to the property---off of Albany Tpk. He stated that as long as the Sperrys owned this property he knew that this endeavor would be handled well. However, he asked for assurances that when and if the property was sold that this wouldn't be expanded. The Board assured him that any expansion would have to come before the Board. Mr. Sperry also added that on the website, the only travel route into the facility is off of Rt. 32, since the road had been paved. He does not expect anyone to utilize the road off of Albany Tpk. The Public Hearing was closed at 7:09PM.

Mr. Everett read a letter from the Town Planning Board recommending that the Special Use Permit be granted. Kary Jablonka reviewed the Short Form SEQRA application, which shows no adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna,

fish, shellfish or wildlife species, significant habitats or threatened or endangered species. The community's goals for the land are not affected, and there are no long or short term effects identified. Since this is the case, Mr. Jablonka moved that this is to be considered an unlisted action, and there is no significant adverse environmental effect in approving this Special Use Permit. This was seconded by Mr. Lick and carried. Mitchell Khosrova moved that this Special Use Permit be issued with the following conditions: 1. this operation is limited to the one building of 12 stalls indicated on the application; 2. Everything is to be stored inside the aforementioned building; and 3. the owner will only recommend the access from Rt. 32 to get to the facility. This was seconded by Adrian Ooms and carried unanimously. Approval fees were paid.

**KEVIN AND KAREN SHERIFF- REQUEST FOR A VARIANCE SO A GARAGE CAN BE
CONSTRUCTED ON THEIR PROPERTY ON HARMON HEIGHTS ROAD THAT CANNOT MEET
THE SIDE SETBACK INFORMATIONAL**

Mr. Sheriff stated that the desire is to put a 2-car garage on their house, but that they need an eight or nine foot variance in order to accomplish this. The Board requested an updated survey which will include the proposed garage, the septic and well and any other structures not currently on the map, as well as where the driveway to the garage will go. The Board would like this information 10 days prior to the meeting if possible. Mr. Sheriff stated that all of the neighbors are fine with this addition, and will provide letters stating this. Certified letters will need to be sent to the property holders within 500 feet of the property, as well. The clerk will be instructed to send a draft letter to Atty. Rappleyea which will inform the Village of this request, since the property also falls within the Village. If the survey is complete in time, the Public Hearing will be scheduled for the April meeting.

The third applicant did not appear at the meeting. The clerk was instructed to reschedule that project for the April meeting.

Kary Jablonka moved and Mitchell Khosrova seconded that the meeting be adjourned. The meeting ended at 7:38PM.

David Everett

Respectfully submitted,

Marilyn Cohen, substitute clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: 3/28/13
Committee/Board: Zoning Board of Appeals

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Kevin Scheriff 15 Harmon Heights Rd. Chatham
NY 12037
2. Kevin Scheriff 15 Harmon Heights Road Chatham
NY 12037
3. Mark Greenburg
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NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, April 25, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for a Public Hearing is:

1. Kevin and Karen Scheriff who are requesting an Area Variance for a side yard setback for a proposed 30'x28' 2-car garage located at 15 Harmon Heights Road.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before April 25.

On the agenda for informational gathering is Mitchell Chaitman and Calliope Nicholas for an Area Variance for a 12'x 10' storage shed set back approximately 30' from the front property line located at 129 George Road.

Any other matters that come before the Board will also be heard.

Dated April 12, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
APRIL 25, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

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Members Present:

**David Everett, Chairman
Mitchell Khosrova
Jeffrey Lick
Adrian Ooms
Kary Jablonka
Robert Leary
JP Henkel
Walt Simonsmeier, ZEO**

Members Absent:

None

Public Present:

**Karen Scheriff
Kevin Scheriff
Calliope Nicholas**

The April 25, 2013 meeting of the Zoning Board of Appeals was called to order at 7:00 PM by Chairman David Everett. The Pledge of Allegiance was recited. Mitch Khosrova made a motion to approve the March 28, 2013 meeting minutes, Kary Jablonka seconded the motion, carried.

KEVIN AND KAREN SCHERIFF- REQUEST FOR AN AREA VARIANCE FOR A SIDE YARD SETBACK FOR A PROPOSED 30'X28' 2- CAR GARAGE LOCATED AT 15 HARMON HEIGHTS ROAD.

PUBLIC HEARING

Robert Leary made a motion to open the Public Hearing at 7:01 pm seconded by JP Henkel. Kevin Scheriff presented a survey of his property to the Board as well as the receipts for the notices to abutters. The Board reviewed the location of the proposed garage and the side yard setback. There were no comments from the public.

Mitch Khosrova made a motion to close the Public Hearing at 7:02 pm, Kary Jablonka seconded the motion, carried.

Chairman Everett commented that this application was exempt from environmental review and that the Village of Chatham was notified that the Scheriff property abuts Village property. Mitch Khosrova made a motion to grant the Area Variance for a minimum set back of 6.8 feet per the survey that was presented to the Board. Robert Leary seconded the motion, carried. Karen Scheriff paid the \$50 approval fee.

**MITCHELL CHAITMAN AND CALLIOPE NICHOLAS- AREA VARIANCE REQUEST
FOR A 12'X10' STORAGE SHED SET BACK APPROXIMATELY 30' FROM THE
FRONT PROPERTY LINE LOCATED AT 129 GEORGE ROAD INFORMATIONAL**

Calliope Nicholas stated that she and Mr. Chaitman did not apply for a permit originally because the shed was not on a slab but later realized that they should have applied for a permit. The shed will be used to store a motorcycle. The property is located off of Rock City Road and the only area to place the shed is in the front property area. This is one property with two houses on it. The yard has a steep slope and there are no garages on the property. Sheds are not normally permitted in front yards but this is the only area that a shed could be placed. ZEO Walt Simonsmeier stated that structures can be placed 50 feet from the property line and 75 feet from the center of the road according to the Zoning Law. He commented that structures are allowed in front yards if you abide by the set back. The Board asked Ms. Nicholas to present a survey of the property at the next meeting to show exactly where the shed will be located and to show the exact setback from the middle of the road. Jeff Lick questioned whether it mattered if the shed were on a slab or not and Mr. Simonsmeier stated no it did not. He also commented that the road in front of the property is not even 20 feet wide. A Public Hearing for this applicant is scheduled for May 23, 2013.

Jeff Lick moved that the meeting be adjourned at 7:17PM, Mitch Khosrova seconded the motion, carried.

David Everett, Chairman

Respectfully submitted,

Barbara A. Fischer, Clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: April 25, 2013

Committee/Board: ZONING BOARD OF APPEALS

Please **PRINT** your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Karen Scheriff

2. Kern Scheriff

3. Calliope Nicolas

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NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, May 23, 2013 at 7:00 P.M. at the Town Hall** located at 488 Rt. 295 in Chatham. On the agenda for a Public Hearing is:

1. Mitchell Chaitman and Calliope Nicholas who are requesting an Area Variance for a 12'x10' storage shed set back approximately 30 feet from the front property line located at 129 George Road.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM-noon and Thursday 2-5 PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before May 23.

On the agenda for information gathering is Leonard Shayer and Jacqueline Windisch Shayer requesting an Area Variance for a side yard set back for a single family dwelling located on Seven Bridges Road so that a Certificate of Occupancy may be issued.

Also on the agenda for information gathering is a request for a Special Use Permit Modification for the PS21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Also on the agenda for information gathering is a request for interpretation for a Public Outdoor Recreation Facility for Destination Moon, LLC for a three day music festival to be held on July 19-21 off of Rt. 295 as well as Highland Road.

Any other matters that come before the Board will also be heard.

Dated May 13, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
MAY 23, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

David Everett, Chairman
Robert Leary
Kary Jablonka
Jeff Lick
JP Henkel
Adrian Ooms
Mitchell Khosrova
Tal Rappleyea, Atty.
Walt Simonsmeier, ZEO

Members Absent:

None

Public Present:

Nicholas Vamuas, Crawford Assoc. representing PS21
Judy Grunberg, PS21
Len Shayer
Jeff Weiner

The May 23, 2013, Zoning Board of Appeals meeting was called to order at 7:00 PM by Chairman David Everett. The Pledge of Allegiance was recited. Robert Leary moved and Kary Jablonka seconded that the April 25, 2013 meeting minutes be adopted, motion carried.

Applicants Mitchell Chaitman and Calliope Nicholas contacted the Board to postpone their Public Hearing. Applicant Destination Moon also cancelled their appearance before the Board until a later date.

LEONARD SHAYER AND JACQUELINE WINDISCH SHAYER- REQUESTING AN AREA VARIANCE FOR A SIDE YARD SETBACK FOR A SINGLE FAMILY DWELLING LOCATED ON SEVEN BRIDGES ROAD SO THAT A CERTIFICATE OF OCCUPANCY MAY BE ISSUED.

INFORMATIONAL

Mr. Jeff Weiner, the construction manager for this project, and Mr. Leonard Shayer, owner, presented a map of the parcel stating that the house was nearing completion when it was discovered that it was only set back 45 feet from the side yard instead of 50 feet. Mr. Shayer stated that the house had been moved by the engineer due to a very deep slope that was of concern of the fire department. When the surveyor came to place the final pin in order to obtain the Certificate of Occupancy, it was determined that this could not be issued because the building was now located only 45 feet from the side yard. Mr. Shayer stated that this is a vacation/retirement home and a certificate of occupancy is needed in order for him to obtain a mortgage. A Public Hearing has been set for June 27th.

QUESTATERRA, LLC-REQUEST FOR SPECIAL USE PERMIT MODIFICATION FOR THE PS21 PERFORMANCE ARTS FACILITY LOCATED AT 2980 STATE ROUTE 66.

INFORMATIONAL

Ms. Grunberg and Mr. Vamuas explained to the Board that they were looking for a modification of a Special Use Permit that had been issued previously to PS21 Performance Arts facility. Ms. Grunberg

stated that the current tent that is in place will not last one more season. It has been in place for 7 years and would cost \$50,000 if they were to replace it. This is mainly a summer performing arts center but they would like to include heating equipment in the proposed open air pavilion as well as more permanent bathroom facilities and dressing rooms for the artists. The seating area will not be fixed although a riser area may possibly be fixed, they were unsure at this time. Mr. Vamuas showed a new rendering of the proposed project to the Board. He stated that the new facility would accommodate a maximum of 300 guests and the enclosed portion of the building would be approximately 5600 square feet. Mr. Vamuas showed an illustration of the existing site as well as the proposed site to the Board. The parking lot which is already constructed would not be expanded and no new lamp posts would be placed. Existing lamps would be moved and landscaping would be done. Mitch Khosrova was concerned with any impacts this new facility would have over the existing one. Mr. Vamuas showed a chart of the difference in impacts over the two facilities stating that there would be fewer people attending thus less water usage than what is being used in the current facility and they were not adding any additional vehicles. The noise is the only concern since the original plan was to enclose the building although they don't expect the noise to be more than 45 decibels, no more than the current tent. Jeff Lick commented that if they are changing the orientation of the building, it would now affect the people who live on either side of the property. Mr. Vamuas stated that this would be facing into the ridge to help dampen the noise and is approximately 700 feet closer to the neighbors. The audience would also be able to have a seat on the lawn area in front of the new pavilion. Chairman Everett stated that there needs to be an understanding of what the maximum capacity would be in relation to the maximum parking. He stated that each Board member will need to know what the last approval stated and the findings of that meeting in accordance to the SEQR Review. The engineer would also need to calculate the space for cars. Bob Leary commented that the last time this was before the Board it was going to be a closed building and the season would be extended. Ms. Grunberg stated that it was an issue of money as to why they were no longer enclosing the building and she encouraged the Board to visit the site with the members of the Planning Board. Chairman Everett commented that parameters were set before and the Board will need to know the number of performances that will be held. Jeff Lick stated that it might be helpful to do some monitoring of sound at this new site. Previously, neighbors were not satisfied with the decibel findings. Mitch Khosrova also commented that it might be useful to see what the decibel levels will be all around the site since some places may now have more noise but others may not.

Chairman Everett asked Mr. Vamuas to provide the Board with an analysis of noise showing why it is the same or less headed toward the northern part of the property. Tal Rapplyea stated that the neighbors to the north had pointed out that the building was originally supposed to be enclosed but it is now going to be open and closer to them.

Chairman Everett stated that the Zoning Board of Appeals would be the lead agency for this application and that some information would need to be provided before a Public Hearing is held. The Board determined that the following information needed to be presented;

1. The septic area
2. Are the soils appropriate for the septic

3. Will DOT have adequate access for the facility
4. Need to contact the Fire Chief regarding safe access to the grounds
5. Need to refer this to the Town Engineer
6. An Escrow account of \$6,000 needs to be established with the Town Attorney
7. Decibel levels need to be determined all around the site and to see if a berm may need to be placed to mitigate sound
8. Colors that will be used around facility to determine if it will be visible from Route 66

Mr. Vamuas stated that the building won't be higher than the original variance from Phase II and there will be lighting around the entrances but no lamp posts. The lights will be turned off after a performance. A landscaping plan will also be presented to the Board which will follow the DEC manual for requirements for green infrastructure. Ms. Grunberg commented that they are looking to start this project in 2015 and the seasons will go from late May to early September.

The Board was also concerned with fire suppression which Mr. Vamuas said he was still gathering information on. He was also concerned with the driveway either being gravel or paved to allow trucks in a loading area. Chairman Everett commented that this project will need a SEQR review and the Board asked that the questions presented at this meeting be addressed at least two weeks before the next meeting on June 27th. The Board will need to begin the SEQR review and start the process of contacting the Department of Health, Department of Environmental Conservation, Department of Transportation, Fire Departments, Chatham Rescue and the Planning Board for a walk through of the property after the decibel level is recorded and to determine if this will change any agreements with the Town. The Board will be provided with the Developer Agreement and the PILOT Agreement before the next meeting held on June 27th which will be a continuation of this meeting. Attorney Tal Rappleyea will write a letter of evidence of intent for the ZBA to be the lead agency as well as coordinate with the aforementioned agencies.

Chairman Everett made a motion to establish the Zoning Board of Appeals as the lead agency for this project. Mitch Khosrova seconded the motion, carried.

With no further business before the Board, Jeff Lick made a motion to adjourn the meeting at 8:12 PM, Dave Everett seconded the motion, carried.

Respectfully submitted,

David Everett, Chairman

Barbara A. Fischer, Clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: May 23, 2013

Committee/Board: Zoning Board of Appeals

Please **PRINT** your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Nicholas Vannias

2. LEN SHAYER

3. JEFF WEINER

4. Judy Greenberg

5. _____

6. _____

7. _____

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**TOWN OF CHATHAM
JUNE 27, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

David Everett, Chairman
Mitchell Khosrova
Adrian Ooms
Jeff Lick
JP Henkel
Walt Simonsmeier, ZEO

Members Absent:

Robert Leary
Kary Jablonka

Public Present:

Jeff Weiner	Calliope Nicholas
Len Shayer	Gordon Ross
Aaron Gaylord	Amy Zimmerman
Frank Mercurio	Judy Grunberg
Jeanette Mercurio	Sam Reilly
Nicholas Vamvas	

The June 27, 2013 Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Mitch Khosrova moved and David Everett seconded that the May 23, 2013 meeting minutes be adopted, motion carried.

Mitchell Chaitman and Calliope Nicholas- Requesting an Area Variance for a 12'x 10' storage shed set back approximately 30 feet from the front property line located at 129 George Road.

Public Hearing

Ms. Nicholas presented another survey map to the Board. The new survey map showed the shed to be 46'11" from the center of the road therefore Mr. Chaitman and Ms. Nicholas are asking for a Variance. David Everett made a motion to open the Public Hearing at 7:06 PM, Jeff Lick seconded the motion, carried. There were no comments from the audience. Mitch Khosrova made a motion to close the Public Hearing at 7:07 PM, David Everett seconded the motion, carried. ZEO Walt Simonsmeier commented that all of George Road is narrow and that some properties were subdivided in the past. Jeff Lick made a motion to approve the Area Variance for 28.1ft. seconded by David Everett, motion carried. Ms. Nicholas submitted a \$50 approval fee check.

Leonard Shayer and Jacqueline Windisch Shayer- requesting an Area Variance for a side yard setback for a single family dwelling located on Seven Bridges Road so that a Certificate of Occupancy may be issued.

Public Hearing

Mr. Shayer and Jeff Weiner the project manager for this property presented notices and the letter sent to the abutting property owners. The side yard lot line was also noted to the Board. David Everett made a motion to open the Public Hearing at 7:12 PM, Mitch Khosrova seconded the motion, carried. Neighbors Gordon Ross and Amy Zimmerman expressed their concerns with the Board stating that their seasonal cabin/garage is only 45 feet away from Mr. Shayers' house and that the trees were actually located on their property not Mr. Shayer's. Chairman Everett asked Mr. Ross and Ms. Zimmerman if they were aware that Mr. Shayer was building a house in this location and they responded yes but they did not expect anyone to be "breathing down" on their property. Mr. Shayers house was built under the perception that the property line pins were correct but in actuality they were not. It was not discovered until after the house was built that the pins were in the wrong location.

Mr. Ross would like a fence to be placed along this property line or some evergreen trees. Mr. Shayer commented that the lights on the house are motion detector activated only and that he is willing to put up more trees to block the house as much as he can from the neighbors. There is a 10-12 foot slope between these two properties and he will look at the angle between the properties. Mitch Khosrova commented that the request is only for 4.3 feet. Mr. Ross stated that Mr. Shayer had a problem in the past getting power to this property because of a 30 foot easement and he wasn't able to move in because of that. Mr. Ross feels that his property has lost some value because of this. Audience member Frank Mercurio commented that the right trees need to be planted at the right distance to block this site from the neighbors. David Everett made a motion to close the Public Hearing at 7:25PM, Mitch Khosrova seconded the motion, carried.

Chairman Everett asked the Board if they would like to postpone this hearing to gather more information about the planting of trees but the consensus of the Board and Mr. Shayer was to make a decision this evening. Mr. Shayer explained that he tried to follow the rules from the beginning but this was just an error. This is a Type II action therefore a SEQR is not required. Mitch Khosrova explained that he felt this was more of an emotional concern on the neighbors' part and believed that the variance should be granted. JP Henkel and Jeff Lick also agreed that the neighbors should try to work out the tree issue as well as some lighting. Mr. Shayer stated that Mr. Ross' house was well back from the property line and that the cabin/garage wasn't even occupied. He stated he just wants to be a good neighbor. Dave Everett read aloud the Variance Standards from the Town Zoning Law to the Board. Mitch Khosrova stated that he did not see a problem based on the standards in the Zoning law. Mitch Khosrova made a motion to approve the Variance for a 4.3ft. setback, JP Henkel seconded the motion, carried.

Chairman Everett decided to change the agenda to allow Mr. Gaylord to present his information before the Board since the PS21 matter may take a lot longer. Mr. Vamvas, representing PS21 did not have a problem with this.

Aaron Gaylord- Requesting an Area Variance for a side yard set-back for a septic system that is within 10 feet of the property line located at 2628 County Route 9.

Informational

Mr. Gaylord stated that he had been before the Planning Board in September 2012 and received approval for a subdivision. He has also been before the County Planning Board and received approval from them as well. The house site has not been established as of yet but it was determined that he could build the house in a buffer zone. Mr. Gaylord is asking for a 10 foot variance for a septic system with a raised bed level sand filter. Walt Simonsmeier stated that this meets New York State setbacks but not the Town setbacks. Mr. Gaylord commented that the property is sold and he will escrow the deposit. He also stated that the house will be at least 50 feet from the property line. Chairman Everett asked Mr. Gaylord that when he comes before the Board he make a copy of the survey map for the Board so that the scale is accurate and that he should have his surveyor write on the map stating that the septic would be 10 feet from the property line. Mr. Gaylord stated that he will not be able to attend the next meeting but he will send a representative in his place. The Public Hearing will take place on July 25th at 7:00 PM.

Continuation of Special Use Permit Modification for the PS21 performance arts facility owned by Questaterra, LLC located at 2980 State Route 66.

Informational

Mr. Nicholas Vamvas from Crawford & Associates Engineering, PC submitted another packet of information to the Board showing revisions of the drop off circle, a decreased plaza area, asphalt walking areas and a gravel loading dock area that may be made of recycled rubber. Mr. Vamvas was asked to mark out on the plans the areas where these surfaces would be located and to explain to the Board what was impervious and what is not. The packet will be forwarded on to Engineer Paul McCready for review and comments. Tal Rappleyea will be instructed to do a SEQR as soon as possible.

Mr. Vamvas explained that the septic system will be downhill, the well will be surveyed and a buried tank for fire protection will also be beneath the building footprint and will be noted on the new plans. An engineers' report for the well should be submitted for SEQR purposes as well. Various lighting plans were also submitted for 3 new lamp posts that will match the existing posts and be 12 ft. tall. Seven short bollards will also be added as well as down directed light fixtures with no light spillage off the site. Mitch Khosrova asked that the height of the lights be drawn on the map as well as showing the current lighting fixtures. Mr. Vamvas stated that this is part of the original Phase II proposal but a reduction in the foot print. Chairman Everett asked Mr. Vamvas to quantify what that reduction is. A Stone & Water Implementation Plan (SWPPP) will be done to show that these plans are compliant. The lawn area will be available for seating but they will not be selling lawn seats. If people wish to use their ticket to sit

outside, that would be their option. The architects rendering also showed that there will be fixed seating on the upper level not the lower level. There will be a total of 273 seats and tickets sold. The original plan called for 405 seats. Some aesthetic impacts discussed were the color of the roof, siding color and line of site drawings. There was also a discussion of using renewable energy. Ms. Grunberg stated that they will have a model and video animated virtual tour of the facility. The Board asked that any changes of color to the existing plans be shown on the new plans and to re-submit line of site drawings to show that this building will not be seen from the roadway. Mr. Vamvas stated that you could not see the building in the original building plan but this will also be a smaller building.

Chairman Everett asked that any signage be noted on the new plans such as pedestrian crossing, handicapped parking, any signs on the facility and arrows marking the driveway directions. Also, to show the placement of any underground utility lines and the lights for the loading dock. The Board may also ask for additional sound monitoring to be done for the new facility and to have Town Engineer Paul McCreary evaluate the findings since this building will be 800-900 feet closer to the Lasky property but further away from the Village of Chatham. Jeff Lick asked if a sound engineer was involved since this is a new facility and he wondered if it is designed to funnel noise to the audience as opposed to the sides of the building. He also suggested that PS21 describe where the noise will go, possibly adding baffling which might be gesture of good will toward the neighbors, and if there is any testing done that the Board be included when it is done so they may also listen. Also, if any marketing of this project is done, PS21 may want to include some of the neighbors now to see how this would interact with the neighbors.

The Board asked PS21 to provide the following items before the next meeting to be held on July 25th at 7:00 PM.

1. Where the new building will direct sound, where speakers will be positioned
2. Any baffling placed in the building
3. Inform the Board of any sound testing
4. Any marketing done to include the neighbors
5. Send a letter to the Board if there are any complaints from neighbors
6. A SWPPP report as well as an engineer report for the septic system and if there will be a public water supply
7. Site plan items such as the lighting, a line of site drawing, what the roof (shape and color) and stairs will look like as well as ground surfaces
8. Any SEQR issues

The Board also suggested that there needs to be a Special Permit approval as well as a developers' agreement for this project. Tal Rappleyea will be asked to do a SEQR as well. JP Henkel asked that a hard count of the number of people that may attend functions also be given to the Board.

With no further business to discuss, Jeff Lick entertained a motion to adjourn at 8:43, JP Henkel seconded the motion, carried.

David Everett, Chairman

Respectfully submitted,
Barbara A. Fischer, Clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: June 27, 2013

Committee/Board: Zoning Board of Appeals

Please **PRINT** your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. JEFF WEINER
2. LEN SHAYER
3. AARON GAYLORD
4. FRANK MERCURIO
5. Jeanette Mercurio
6. Nicholas Vamvas
7. Callie Nichols
8. BOROBN ROSS
9. Ally Zimmerman
10. Ida Ormberg
11. Ben Lee
12.

**TOWN OF CHATHAM
JULY 25, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

Members Present:

Mitchell Khosrova, Dep. Chair.
Adrian Ooms
Jeff Lick
JP Henkel
Robert Leary
Kary Jablonka
Walt Simonsmeier, ZEO
Paul McCreary, Town Engineer
Tal Rappleyea, Town Attorney

Members Absent:

David Everett

Public Present:

Brandee Nelson	Pat Prendergast
Victor Borghi	Joan Borghi
Deborah Pierce	

Deputy Chairman Mitchell Khosrova called the July 25, 2013, Zoning Board of Appeals meeting to order at 7:02PM. The Pledge of Allegiance was recited. Proposed changes to the June minutes were submitted by Brandee Nelson, who is representing PS/21. The changes were reviewed. JP Henkel moved and Jeff Lick moved to accept the modified June minutes. This carried.

Aaron Gaylord- Requesting an Area Variance for a side-yard setback for a septic system that is within 10 feet of the property line located at 2628 County Route 9. PUBLIC HEARING

Engineer Pat Prendergast submitted a letter showing that he has permission to represent Aaron Gaylord and the new property owner, Jeff Saunders. This request is seeking permission to use the state requirement of 10' for this setback rather than the 50' the Town requires. This parcel is surrounded by DEC wetlands, which results in a very small building envelope. The septic requirement is that of a sand filter bed going into a gravel fill bed. Because of the gentle slope of the land, this will not interfere with other wells in the area. DEC has approved this location. Postal receipts were submitted. The closest house is located about 200' on the other side of the hill, and there will be no runoff from the sand filtering system to this home. As per Town Code 180-41, a 40' variance is being requested. Per some concerns as to whether this was a buildable lot, ZEO Walt Simonsmeier presented the 1982 and revised in 1987 subdivision map, which shows this as a buildable lot. This property is located in an RL-2 zone. No construction has begun yet, as the sale took place this past year.

The Public Hearing was opened at 7:45PM.

Deborah Pierce, who lives across the street from the property, claimed that she was told that this was not a buildable land when she purchased her property. She added that it had been surveyed several times. She wondered how this was changed, since it will interfere with the wetlands. Victor Borghi, another adjoining property holder, indicated that he was told the same thing-----there

could be no building on this lot. He wanted to buy it from an early land owner (Keith), but did not since he had been informed it couldn't be built on, and now that has changed. Mitchell Khosrova explained the process involved. This property, in order to be built upon, would require that the property owner seek a variance to permit this. With the new technological changes and the kinds of septic systems available, the applicant is now coming to the ZBA to request an area variance which would permit a building on this property. Kary Jablonka wondered what the concern in. Mr. Borghi indicated that the back of the property is wet and swampy---originally it was a lake until the beavers came. What will the owner do when his home is flooded by the ground water? He has serious environmental concerns. Adrian Ooms stated that the Health Department and the DEC have approved a septic system, and we need to go with that information. It was also noted that on the 1987 subdivision map, the building envelope was located in the same place where building will be taking place.

The Public Hearing was closed at 7:40 PM. The five standards for accepting/rejecting a variance were reviewed: 1. Is this a substantial request? 40' is an 80% request, so it could be considered substantial, but the state requirement is met without the variance; 2. Will this cause a negative change to the community? No; 3. are there substantial negative effects to the environment? DEC looked at this, the Board understands the concern, but needs to have faith in the DEC and other professionals, so, no; 4. Is there an alternative for the applicant to achieve the same result? Even with a smaller house, it would be in the same place and the same kind of septic system would be required, and a variance would be required, so, no; and 5. Is this self-created? No.

Adrian Ooms moved and Robert Leary seconded that this 40' variance request be approved. This carried unanimously. Mr. Borghi was concerned that the DEC sits in their offices and they don't know the area and what could, and probably will happen. Atty. Rappleyea will submit the Notice of Action.

**Continuation of Special Use Permit Modifications for the PS/21
Performance Arts Facility owned by Questaterra, LLC, located at 2980 State
Route 66. INFORMATIONAL (cont.)**

Brandee Nelson thanked the Board for considering the proposed changes to last month's meeting minutes. She stated that she wanted to be sure that they were accurate, as there have been issues in the past with the public. She is prepared to address some of the questions posed from last month's meeting. All of the below was substantiated with reports, maps and charts.

1. Water Supply source: the well that has already been dug provides 6 gal/min, resulting in 8600 gal/day. Currently, about 1200 gal/day are used, so no new wells will be needed. This well meets all requirements. The Health Department will be seeking information on chlorination and

filtration, which will be provided. In the new facility, permanent bathroom facilities will be added. There is no kitchen facility planned. The well is located about 300' from the building and it is deep. Shower facilities for the performers will also be put in.

2. Site lighting: This will be kept as minimal as possible, and it will match what is already there. Only one light pole with 3 downcast pole mounted lights will be added. There are currently 10 bollards being used from the tent---7 of these will be used to go to the new facility, so overall the amount of site lighting will be about the same as it is currently.
3. Visual Impacts and Comparison to the original building: Initially a height variance for the building was approved. Since this building will be lower than the Town requirement, this is no longer needed. Proposed height is 34'7". Most of the hedgerows have remained. The new facility is only 1.64 acres, while the approved original disturbance was 6.84 acres---a difference of about 5 acres. The lowest corner of the footprint is being used. There is a 90 degree rotation from the original proposal, and seating in the embankment is being planned. Removable chairs will be used, making this a multi-purpose space. Raked seating will hold 273 seats, stadium style. The fixed seating will not be straight to the stage. There was some discussion regarding this. Ms. Nelson showed some of the proposed building materials: galvanized metal, tung and groove wood and the washed stone exterior.
4. Sound Impacts: Brandee Nelson stated that at the time of the original approval, a lot of testing had been done. At that time, the Town had been working on a new sound law, which never was approved, however, PS/21 agreed to work within the limits of that proposal. Ms. Nelson reviewed what sound mitigations were done throughout this procedure to help alleviate the concerns brought up by the public. She does not feel that additional sound testing is needed. The noise will be focused downwards into the venue and baffling will be used to direct it down. The neighbors will say that they still will be able to hear this; however, the point of compliance is in what the Code says. Yes, there is some audibility, but they are still compliant. Sound testing bears this out. Standards have been met for the past 8 years. The Board responded that sound is the main complaint. This isn't about the science of the sound----it is in the constancy of the hum throughout the season----the nuisance aspect, which the Board tries to mitigate.

Our Town engineer, Paul McCreary feels that people who have issue with sound will continue to have issue with sound. NYS is showing that less than a 3dBA difference between ambient sound and additive sound has no impact. Science does give us the ability to analyze sound though, and DEC does have guidelines. Mr. McCreary feels that the fact that PS/21 differentiates between night and day

performances, and they are respecting a non-adopted sound ordinance. He suggests that PS/21 look at the sound corridors that he has shown and see if the sound levels fall within acceptable levels there. It was further suggested that they look at the sound at the source, and do some comparisons of source sounds at 105 dBA, 100, dBA, 95dBA. Source sound is often harder to monitor than property line sound. Mr. McCreary has some spreadsheets that he would be willing to share with Ms. Nelson. Ms. Nelson feels that she can have these calculations to the Board by next week, and then wonders if a Public Hearing can be set for the next meeting. After some discussion, it was determined that next month the new information will be discussed by the Board, and then a Public Hearing will be set for the ZBA's September meeting. It will also be able to then go to a Public Hearing for a Site Plan review in October to the Town Planning Board. The Board asked that the placement of the residences be on the sound map for next time, along with where testing took place. Mr. McCreary will provide an aerial map, too. Ms. Nelson indicated that Table 16 from the original provides this information. Our Board just wants to be sure that there is no dismissal of anyone's voice in regard to this project, or any of the ZBA projects.

The meeting was adjourned at 9:13pm.

Mitchell Khosrova, Deputy Chairman

Respectfully submitted,

Marilyn Cohen, Deputy clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: July 25, 2013

Committee/Board: ZONING BOARD OF APPEALS

Please **PRINT** your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Brandee Nelson Crawford & Assoc. 551 Warren St Hudson
2. Pet Prenzler Engen Honolulu
3. Victor Borgh East Chatham
4. Jean Baghi E. Chatham
5. DEBORAH RICE East Chatham
6. _____
7. _____
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ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, August 22, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for informational purposes is:

1. Continuation of Special Use Permit Modifications for the PS/21 Performance Arts Facility owned by Questaterra, LLC located at 2980 State Route 66.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before August 22nd.

Any other matters that come before the Board will also be heard.

Dated August 9, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
AUGUST 22, 2013**

**ZONING BOARD OF APPEALS
FINAL COPY**

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Members Present:

Mitchell Khosrova, Dep. Chairman
Robert Leary
Jeffrey Lick
JP Henkel
Kary Jablonka
Adrian Ooms
Paul McCreary, Town Engineer

Members Absent:

David Everett, Chairman

Public Present:

Nicholas Vamvas, Crawford & Associates
Judy Grunberg
Susan Davies

Deputy Chairman Mitchell Khosrova called the August 22, 2013 Zoning Board of Appeals meeting to order at 7:00 PM. The Pledge of Allegiance was recited. Kary Jablonka moved and Robert Leary seconded that the July 25, 2013 meeting minutes be adopted, motion carried.

Continuation of Special Use Permit Modifications for the PS/21 Performance Arts Facility owned by Questaterra, LLC, located at 2980 State Route 66.

Nicholas Vamvas a staff engineer from Crawford and Associates who is representing PS/21, referred the Board to the letter he had sent stating the results of the expected noise levels at the six points around the PS/21 property that range from 39-46 dB(A) with a source of 105 dB(A) down to 14-21 dB(A) with a source of 80 dB(A). He stated that these calculations show that Phase II of the project "will comply with the noise levels imposed at the PS/21 property lines." Mr. Vamvas also stated that the math that Engineer Paul McCreary was using did not match his firm's calculations. Mr. McCreary stated that the green shaded areas on the map were of concern to him commenting that the contours of the land where the topography rises are not level and this acts as a dissipater for sounds. Jeff Lick also commented that according to the map, sound "peters out" in some points and not in others where it is wider and the other narrower which is a function of the topography. Where there is a ridge in one area there is less sound here. JP Henkel stated that there is no significant amount of noise off to the west because of the ambient noise of the creek. Kary Jablonka asked if foliage would also make a difference? Mr. McCreary stated that foliage and the topography of the land would further attenuate the sound levels. Mitch Khosrova asked Mr. McCreary whether there was anything to cause amplification of the sound instead of attenuating sound? Mr. McCreary commented no. Mr. Vamvas pointed out to the Board that the tables they were provided with show how the sound dissipates at each point and that they are compliant at the property line. JP Henkel displayed the color chart "sound thermometer" with the comparable sounds that were presented to the Board at the previous meeting. He also asked what it would take to close a wall located on the north section of the amphitheater. Mr. McCreary said he would address that issue for the next meeting. Mr. Vamvas

stated that PS/21 wanted access to the north but the roof doesn't quite meet the wall in this area. Jeff Lick asked for a re-design of this area and a better explanation of why they are not closing the wall. He also commented that the tests validate the charts mathematically and are reasonably consistent.

Paul McCreary displayed a sound level projections chart showing an "understanding of noise". This chart shows what sound does over distance. Sound loses power over distance which has to do with the spread of the sound. He stated that you lose 6 decibels of sound every time you double the distance, ie. 120 dB(A) down to 80 dB(A). At a 105dB(A) level, at 50 feet you have a serious reduction in sound. Mr. Vamvas stated that the ambient noise is now between 45-50 decibels from the previous testing. Mitch Khosrova and Kary Jablonka commented to Mr. Vamvas that this Board gives the applicant an opportunity to get this information out to the public and it would be beneficial for PS/21 to show or relate the sound projection in a readily understandable narrative for the public hearing. Mr. McCreary stated that the sound source level is one of the most important things to know which will be louder at the property lines.

Mitch Khosrova informed the Board of an upcoming concert that the Board may want to attend to get a better understanding of the noise content. Paul McCreary will contact ZEO Walt Simonsmeier regarding getting a sound meter for this concert. He also commented that with the configuration of the amphitheater there is no problem with the property line. North of the amphitheater is significant excavation which may be a good place to put the excess dirt to create a berm which would provide additional/supplemental attenuation of sound at the North property line. A berm would eliminate the sound and ornamental grasses that are not mowed could be placed at this site for the landscaping. He also commented that "Science flies by the face of perception". What the sound is not the sound level is what bothers people.

A Public Hearing has been set for September 26, 2013 at 7:00PM at the Town Hall.

With no further business to come before the Board, Kary Jablonka moved to adjourn the meeting at 7:55PM. Jeff Lick seconded the motion, carried.

Mitchell Khosrova, Deputy Chairman

Respectfully submitted,

Barbara A. Fischer, Clerk

ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Thursday, September 26, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for Public Hearing is:

1. Special Use Permit Modifications for the PS/21 Performance Arts Facility owned by Questaterra, LLC located at 2980 State Route 66.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before September 26th.

Any other matters that come before the Board will also be heard.

Dated September 16, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

The September 26, 2013
Zoning Board Public Hearing
has been canceled
and is rescheduled
for Thursday, October 24, 2013 at 7 PM

** Meeting was Rescheduled for October 30, 2013 at 7pm.*

DATED: 9-23-13

Beth Anne Rippel, Town Clerk

as per Town Attorney, Tal Rappleyea

(Posted on website and front door)

NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Wednesday, October 30, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham: On the agenda for informational purposes is:

1. Generation Impact of 510 County Route 32, North Chatham, NY 12132 requesting a Special Use Permit to change a current residential use to a church on 16 acres with the addition of a parking area and an assembly building.
2. Jacob Meyer of 4225 Route 66, Malden Bridge, NY 12115 requesting a Special Use Permit regarding the conversion of an existing two story detached structure into a two family residence.

ALL persons interested in this matter will be heard at such time and place specified. Copies of the application are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on this application will also be considered if received by the Zoning Board at the address specified on or before October 30th.

On the agenda for a Public Hearing is:

1. Special Use Permit Modification for the PS21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Any other matters that come before the Board will also be heard.

Dated October 21, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

**TOWN OF CHATHAM
OCTOBER 30, 2013**

**ZONING BOARD OF APPEALS
DRAFT COPY**

Members Present:
David Everett, Chairman
Mitchell Khosrova, Dep. Chairman
Robert Leary
Jeffrey Lick
JP Henkel
Kary Jablonka
Adrian Ooms
Tal Rappleyea, Town Attorney
Paul McCreary, Town Engineer

Public Present:
See attached list

Chairman Everett explained to the audience the role of the Zoning Board of Appeals and informed everyone that this was not a Public Hearing for the applicant Generation Impact therefore the Board would not be taking comments.

Chairman David Everett called the meeting to order at 7:00 PM. The Pledge of Allegiance was recited. A motion was made by Mitch Khosrova to accept the August 22, 2013 minutes as presented, Kary Jablonka seconded the motion, carried.

Generation Impact of 510 County Route 32, North Chatham, NY 12132 requesting a Special Use Permit to change a current residential use to a church on 16 acres with the addition of a parking area and an assembly building.

Informational

Steve and Carol Ann Price representing Generation Impact presented display boards depicting the new church. They proposed to maintain the rural character of the site behind the existing house and the existing building would only be seen from County 32. They plan to build an 80x60 assembly building that would be similar in style to the existing buildings and to screen the existing site. An aerial view was shown of the property. Chairman Everett informed Mr. and Mrs. Price that a new short form SEQR has been updated and they would need to fill this out. Chairman Everett referred to Town Engineer Paul McCreary to begin looking at the impacts such as septic, lighting and water. The Prices' attorney was informed to contact Town Attorney Tal Rappleyea and Mr. McCreary to set up an escrow account.

Chairman Everett expressed some concern regarding screening the parking lot of this proposed project and questioned whether the applicant could move the lot to the other side of the existing building. The Board was informed that there is a current congregation of approximately 100 members but there would only be 70 parking spaces. The new assembly building will hold 200 people and the lot will be a gravel surface.

The chairman asked Mr. and Mrs. Price to contact the Highway Superintendent for curb cuts and he would like some written correspondence from him regarding the site distance as well. JP Henkel asked that the Fire Chief also be informed of this project.

Chairman Everett asked whether the screening and the lighting had been decided upon yet and he was informed that it was not. He suggested that they may want to fill in a gap with screening or possibly move

the parking behind the existing building. He also stated that they should consider the light spillage off of the site and to make sure the lights are directed downward and that they have shields on them. Mitch Khosrova asked if anyone had contacted the Fire Chief and if they were going to replace the existing trees. Mr. Price stated that they will use the existing trees. Mitch Khosrova also inquired about the usage of the building. Mr. Price stated that the building will be used on Sunday mornings for Sunday school and on Wednesday evenings for prayer services. The Board would like a full narrative of the monthly operations for this location.

Chairman Everett informed Mr. and Mrs. Price that they would need to get a SPEDES Permit even if the parking lot is gravel with pre-draining and questioned if the Board would become the lead agency. Mitch Khosrova made a motion to have the Zoning Board of Appeals be the lead agency and the coordinators of the review process. Kary Jablonka seconded the motion, carried.

Chairman Everett also suggested that the applicant expand on the septic system layout and that the Department of Health will need to look at the water and septic plans. The Board was informed that the water has been tested previously and they are unaware of any swamps or ponds located close by for fire protection. Mitch Khosrova asked that the applicants also speak to the Fire Chief regarding the building code and to see if fire apparatus would be able to maneuver around the building easily. Mr. Price commented that the building was not required to be sprinklered. Town Attorney Tal Rappleyea stated that the applicants should have a positive written statement showing that all issues have been looked at if they are to be eliminated.

Robert Leary asked if the applicants had given any thought to matching the brick home that already existed instead of building a 6700 square foot pole barn? Mr. Price stated that they have not decided on the color of the building. Mr. Price was reminded that this information should be supplied at the next meeting to be held on November 26th. There will not be a Public Hearing for this application until at least the December meeting. He also stated that comments from the audience would not be beneficial at this time. JP Henkel inquired about the use of the existing house and garage. Mr. Price informed the Board that the existing house is being used for church functions such as a food pantry, banquets, prayer, counseling, and life crisis counseling as well as the mechanical repairs of autos owned by church attendees in the garage. There is no one living in the house at the moment. Mitch Khosrova asked about holding wedding banquets the auditorium. Mr. Price stated that they will be holding banquets for parishioners as well as the general public. There will be approximately 6- 8 events in the house during the year and there will also be fixed seating for 200 people in the assembly building. Tal Rappleyea commented that the Board will need to know the potential traffic impacts and area showing the loading of church attendees.

The applicants were asked to provide all of the information that the Board discussed with them this evening at least 10 days before the next meeting to be held on November 26th.

Jacob Meyer of 4225 Route 66, Malden Bridge, NY 12115 requesting a Special Use Permit regarding converting the first floor of an existing two story detached structure into a living space which would create a two family residence.

Informational

Jacob Meyer and Rosamond Pope-Meyer stated that next to their existing house is a separate structure with an apartment on the top floor that they will continue to rent. The bottom floor is an unfinished area where they would like to put in an exercise space/office/studio with a kitchen and a bathroom. They presented the Board with an updated floor plan which would create a two family residence. Mitch Khosrova asked if there is an existing Certificate of Occupancy for all of these buildings and Mr. Meyer said he was unsure. They will check with building inspector Walt Simonsmeier and get a copy of the C of O. Both units will each use a separate septic system according to Mr. Meyer and Chairman Everett advised Mr. Meyer to check with the Columbia County Health Department to see if the septic system is approved for this project and information regarding whether or not there is sufficient water capacity for this property. Jeff Lick commented that this is basically a third apartment and they may want to separate this property and sell it at a future time.

The Board asked that Mr. Meyer provide them with a full site plan showing the surrounding properties as well as a full version of survey plans for the building pointing out where the septic and wells will be located by the next meeting to be held on November 26th at 7:00 pm. Chairman Everett also reminded Mr. Meyer that he will need a new EAF that he can download from the DEC website to bring to the next meeting.

Special Use Permit Modification for the PS 21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Public Hearing

Chairman Everett asked Brandee Nelson from Crawford & Associates who are representing PS 21, to give a presentation to the audience regarding this project. Ms. Nelson proceeded to state that PS 21 was seeking a modification to the project that was started almost 10 years ago in 2005. This was the first phase of the project with a tent for the summer months. There are currently 405 seats for this facility which runs performances from mid- May through mid- October. The open air portion currently allows 300 people. A DOT entrance was installed on Route 66 and a gravel driveway and parking lot with 170 parking spaces was constructed. After using portable rest rooms and trailers for artists to use, the PS 21 Board looked at what the future would hold for this project. The current tent is almost at the end of its useful life and the Board would now like to build an 80-100 square foot open air pavilion while keeping the same number of seating at 300. They are decreasing the amount of parking spaces and the land disturbance is down by approximately 75% from the original proposal. This new building will have an East/West orientation rather than a North/South orientation that it has presently. They are looking at this as a long term investment and having an office space for a box office. There is a new potable water supply that has been approved by the Department of Health which was flow tested and quality tested. They are currently filing the application to the DOH for the water supply. They are eliminating a kitchen area making the use of water at 1200 gallons per day which is a 75% reduction of what was originally planned. No new lighting will be installed but rather 10 bollards will be re-located. PS21 will be disturbing more than one acre of this site but they have a current SPEDES Permit. There will not be an increase in traffic because they will have fewer seating but the operations will remain the same.

Ms. Nelson showed the audience the proposal before the Board and stated that they will use the original septic plan because it is in the best location but it will be a smaller system. Ms. Nelson showed the architectural rendering of the project which shows an open air design. The long term plans are to have a fully enclosed space but it is not financially feasible to make it such at this time. The building itself will be an earth tone color and commented that the percentage of having an open building as opposed to a

closed building is 1/3 closed to 2/3 open. Speakers will be mounted above the stage and directed at the audience. Storage facilities will be located in the basement level.

The Board asked about fire suppression. Ms. Nelson commented that if there are to be over 100 occupants in the building the building needs to be fully sprinklered. They will have a cistern holding facility. They have not met with the fire department yet to discuss this. Chairman Everett asked Ms. Nelson to provide a SWPPP to the Board if there is a continuation of this hearing next month.

JP Henkel asked whether PS21 has looked at the berm to the north that was presented at an earlier meeting? Ms. Nelson stated yes and they are considering the input that Town Engineer Paul McCreary presented to them at that meeting.

Chairman Everett commented that he would like Mr. McCreary to give some input as to how high and how wide, etc., the berm would need to be. JP Henkel asked if the excavation would yield enough soil to form the berm and he was informed yes.

Bob Leary commented that he has heard a lot about reduction but what about noise reduction? Ms. Nelson commented that PS21 has consistently complied with noise issues and they invite the Board to come to events to monitor the noise with them. A couple of Board members stated that they have visited the site already. Dave Everett asked if they were having lawn seating and Ms. Nelson replied no. Ms. Nelson asked the Board to visit the site again at a date to be determined in November before the next meeting. Tal Rappleyea reminded the Board that no more than three Board members may meet at one time otherwise it constitutes a quorum.

Ms. Nelson also stated that they already have a permit from DOT and they received a copy of the letter from the Columbia County Planning Board recommending the Board approve the site of this application. The County Planning Board recommends that additional sound monitoring be done as well. Chairman Everett commented that the escrow account needs to be checked to see if it is up to date and the Board would also need the comments of Paul McCreary in writing as well as a SEQR.

Dave Everett moved to have the Zoning Board of Appeals be the lead agency for this project, Mitch Khosrova seconded the motion, carried. Attorney Rappleyea will write the letter designating the ZBA as the lead agency for this project.

Chairman Everett stated that the Board will need Part II of the EAF for the next meeting and asked the Board members to go over the new information packet that was provided to the Board. Ms. Nelson also commented that copies of the entrance plans, DOT Permit and a request for a speed limit reduction has been forwarded to DOT. A copy was also sent to the Zoning Board for the files.

Tal stated that a SEQR should be done to do a finding at least during the context of the Public Hearing or before the next meeting.

Engineer Paul McCreary was asked to review what this applicant intends for this site and to explain the noise level that would be generated by the facility. Mr. McCreary explained how sound gets generated and dissipated over distance and showed a "Decibel Thermometer" pointing out the different decibel levels that give you an idea of what a given sound would be. The Board asked Mr. McCreary to go back to the site and do a site reanalysis of the berm sound source intensity level. Mr. McCreary stated that there

would be a sound reduction around the building once a berm was made from the soil from the excavation for the onsite septic etc. He recommended that the north side of the property receive a berm and he does not anticipate any adverse impacts to the east.

Mr. McCreary drew a sound source depiction on the board which would determine the proximity of the sound source. It is hard to determine how far the sound will travel because there are no really hard surfaces for the sound to reflect off of. JP Henkel asked if there would be any reflection back to the west because of the berm? He commented also that having this berm would improve things for the west and the north but it might make it worse for the east. Mr. McCreary stated that he feels that side would be protected much more than the original tent site with this berm tied into the natural berm that is there already. He also commented that filling in the low areas with soil would help but he felt that because of the distance it would not help with the noise. Kary Jablonka pointed out that the 55 decibels that Mr. McCreary made reference to for this site is equivalent to a residential range of a conversation or a floor fan. This is normal background noise.

The Board asked PS 21 to present a design of land berms for the next meeting because they are concerned with changing the character and vegetation of the land.

Ms. Nelson asked the Board to see the current view shed on Route 66. She stated that the berm to the north is on the west side of the hill but you don't see it. There is a saddle created between two high points which is about 400 feet. She stated that the objective of PS 21 is to be light on the land and not truck in more dirt to impact the land.

Chairman Everett asked Mr. McCreary to provide an opinion on whether having berms for the new facility would be an improvement to the existing site or if it would be tough to tell. Mr. McCreary stated that having a berm north of the structure will satisfy the Board and the applicant and he feels that the sound leaving the facility will be less with the new facility than the tent. He also stated that the sound at the property line is within proposed Zoning Code limits. Chairman Everett stated that modifications were made back in 2010 and commented that PS21 was agreeing to keep all the conditions as currently proposed as they were back in 2010. He asked Ms. Nelson if PS21 was proposing to change the configuration of the original closed facility and she responded yes. The Board will look into the Finding Statement and the noise protocol that was approved back in 2005 so clarification can be made on what the limits were from 2005 and 2010.

JP Henkel described his visit to the site to check the sound levels during a recent concert. He showed a map of where he went to listen for the level of noise coming from the site. As he went north of the tent he did not hear anything and then traveled to the Route 66 entrance to the side of the tent and could make out some noise but it was muffled. He then went to High Bridge Road and stated that lyrics were barely audible. He then drove to The Behrens residence on White Mills Road and stated that he could hear the music like it was in the next room. This was the worst possible area for the noise to be heard. Mr. Henkel agreed that a changing the building orientation and a berm will provide much relief to the Behrens property.

The Board opened the Public Hearing at 9:00 pm.

Terry Lasky took exception to the comment made by Ms. Nelson stating that there have not been any complaints when he stated that he had left messages with the Town Clerk regarding the noise. Ms. Nelson

clarified her comment stating that she meant recently. Jeff Lick commented that the Board was informed of complaints after a recent "Rock a Billy" concert.

Abby Behrens of White Mills Road stated that she had not written a complaint before because her family wanted to be "good neighbors". She stated that for 8 years her family has been listening to good and bad concerts and feels it is an invasion of her privacy. She asked Ms. Grunberg and Ms. Nelson to "work with us as we have worked with you". She commented that rehearsals have gone to 11 or 11:30 at night and believed that this was a request for a 3 season structure which will allow the rehearsals and concerts to increase. She is concerned that there will be weddings and other events and would like it in writing that they will not be having these. She asked PS21 to do what they have to do to smooth this out and try to work together. Chairman Everett asked Mrs. Behrens if she had any recommendations and she stated that she would have to study further. Ms. Grunberg stated that a dress rehearsal was a little loud and she apologized for that. Dave Everett commented that events should include rehearsals and this needs to be differentiated.

Patricia Lasky read a letter stating that PS21 has gone before the Board before and every request has been granted. She stated that the neighbors of PS21 have suffered for 8 summers and by the time the noise reaches their house it doesn't sound like music. She commented that over and over again they have been told that PS21 noise was not significant. She stated that now is the time for PS21 to build a fully enclosed building to operate year round as promised. She also stated that because they did not complain they are being punished.

Mark Jackson from 112 High Bridge Road read a letter to the Board asking if any PS 21 management had visited any neighbors who have been affected by the noise. He asked how a decision could be made without visiting the neighbors and PS21 has only benefited a small group of people, not the whole community.

Chairman Everett asked Ms. Nelson to explain why the building can't be enclosed at this point. Ms. Nelson stated that it would cost 3 million dollars more for the glass, electrical systems and mechanicals. Ms. Grunberg stated that they are trying to do this in phases. Chairman Everett pointed out that the submissions made to the Board say it will be a 3 season building. Ms. Nelson replied that the season will remain from May to October.

Kimberley Costigan from 3088 Route 66, the last house before High Bridge Road, also stated that she has not called to complain because that is not what she would do. She feels this is a great project but it keeps getting added on to. She is not informed when changes are made because she is out of the 500 foot limit. She feels that it is time for some closure on this project.

Chairman Everett asked Paul McCreary to explain why a location is so significant based on everything else he has told the Board. Mr. McCreary stated that he could not give a definitive answer to that question because sound is affected by cloud cover, wind, etc. It could be a combination of several things and it is difficult to analyze at any given time. Ms. Nelson will consult with the architect regarding the acoustic design concerning the speakers placed at the roof of the stage and how high the berm may have to be. When the height of the berm is determined PS21 will come back to the Board with the acoustic information. Mitch Khosrova commented that he was concerned that people are hearing noise after 11:00 pm. Ms. Grunberg again stated that she was sorry that had happened and commented that they have also had 2 weddings and a funeral service in the last two years.

Lisa Tuthill of 3066 Route 66 stated that this was the first time she had heard about all of these issues and stated that she has had the exact same concerns.

Ms. Lasky again commented that there are a number of neighbors who could not attend this evenings meeting and they also had concerns. She stated that it has been 8 years that they have been patient and felt that it was there civic duty to keep quiet. Her issue is when/if PS21 will ever enclose the building.

Chairman Everett stated that the Board needed to decide if the Public Hearing should continue until December to allow any other neighbors to come forward. The Board agreed to continue the Public Hearing to the December meeting.

Kim Costigan again commented that if this project is going to have a septic system, how would this impact the availability of water to her well and to her neighbors which brings in to question the water availability as well as the quality of the water.

Mr. Lasky asked if beer and wine is sold at these events. Ms. Grunberg stated that they did have two events where they served beer and wine but they had a license to do so. Chairman Everett stated that the Board had no control over a liquor license. Ms. Behrens was concerned that if there are weddings being conducted on the site, how does this expose the Town and does the Town benefit from this at all?

Chairman Everett asked the Board members to study the proposal and to look at all of the documents before the next meeting to be held on November 26th at 7:00 pm at the Town Hall.

With no further business to discuss, Kary Jablonka made a motion to continue the Public Hearing until the November meeting and to adjourn tonight's meeting at 9:45 PM. Bob Leary seconded the motion, carried.

David Everett, Chairman

Respectfully submitted,
Barbara A. Fischer, Clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: October 30, 2013

Committee/Board: Zoning Board of Appeals

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. STEVE & CAROLANN PRICE PO BOX 130, N. CHATHAM 12132
2. Anthony Maney Attorney
3. Jay Bove Attorney
4. James & Betsy Phelan, P.O. Box 961, North Chatham, NY 12132
5. James + Priscilla DeAngelis PO Box 924 North Chatham NY 12132
6. Monica Imagher PO Box 477 N. Chatham 12132
7. John J. Peckeb 12132
8. Charles Fauch, Claire Fauch
9. Barbara J. Shannon
10. Angela McGuire, 58 Pebble Lane, Chatham, NY 12132
11. David Churchill 122 Stony Ln North Chatham NY 12132
12. Mark Reamer 109 Depot St North Chatham NY

MEETING ATTENDANCE SIGN-IN

Meeting Date: Oct 30, 2013

Committee/Board: ZBA

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Donna Staron Timothy Halk
2. John Hark James Krato
3. Susan Davies Andrea DeHoto
4. TERRY LASKY LARRY SALZMAN
5. Patricia Lasky
6. DEBORAH RIERCE
7. Thomas M. Baily
8. Sharifa E. Perry
9. Emily Costigan
10. Jane Jolly 552 Co Highway 32
11. the Post NORTH CATON
12. Julie Kabat
13. HINATA Macaione

MEETING ATTENDANCE SIGN-IN

Meeting Date: Oct, 30, 2013

Committee/Board: ZBA

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. ^{Tommy} ~~and~~ Helene Annas 749 Hudson Ave, Chatham 12037
2. Doris Appel - EARLE Kelsey No. CHATHAM
3. ~~Abby Behrens~~ ABBY BEHRENS 136 White Mills Rd Chatham; N.Y. 12037
4. Chris Milanesi CHRIS MILANESI 149 SINCAVICH RD OLD CHATHAM, NY 12136
5. Rosemond Pope-Meyer 4225 State Rt 66 Malden Bridge 12115
6. Judy Grunberg 83 Silvernail Road Valatie NY
7. Barbara Nagler 645 Rock City Rd, Old Chatham, NY 12136
8. Van Bloomberg 979 Highland Rd. Old Chatham 1213
9. Brandee Nelson 551 Warren St Hudson, NY 12534
10. _____
11. _____
12. _____

MEETING ATTENDANCE SIGN-IN

Meeting Date: Oct 30 2013

Committee/Board: ZBA

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Robert GERAGHTY 526 Rt 32 N. Chatham
2. Lorraine Cameron Caroly Rd. " "
3. Marilyn Cohen 1524 CR 28 Valatie
4. Sharon Searing 29 New Concord Road E. Chatham
12060
5. J. Penn & Jents 1221 STATE RT 295 E. Chatham
6. Robert Jents 1221 STATE RT 295 E Chatham NY
7. LAWRENCE DREHER 509 CR 32, N. CHATHAM NY 12132
8. MERRY SHEILS, 1 WOODWARD RD, N. CHATHAM, NY 12132
9. Carol & Steve Kraus, P.O. Box 298, Kinderhook, N.Y. 12106
10. Katie Kocjanish, Chatham Center
11. Tom & Jan Bailey Valatie NY
12. _____

MEETING ATTENDANCE SIGN-IN

Meeting Date: Oct 30 2013

Committee/Board: ZBA

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. George H. Vollmarth Box 236 North Chatham NY 12132
2. Loretta Salvendy, Cty Rte 32 Woodward Rd 12132
3. Darlene Taft, PO Box 908, No. Chatham, 12132
4. DAVID CRAMER 1181 RT 9 HUDSON, NY 12534
5. JAMES ROTHENBERG 11 Stony Knoll N. Chatham 12132
6. Helene Niemeyer 81 Pebble Ln, N. Chatham
7. Matt Niemeyer 81 Pebble Lane N Chatham
8. Mary Mensing 14 Brookside Rd. Nassau NY
9. Jeanne VanAllen, Kinderhook, NY
10. Doug Bartels 519 County Route 32 North Chatham
11. Angela Bartels 519 County Rte 32 North Chatham
12. Maureen Geraghty 526 RT 32 North Chatham

NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Tuesday, November 26, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for continuation of information is:

1. Generation Impact of 510 County Route 32, North Chatham, NY 12132 requesting a Special Use Permit to change a current residential use to a church on 16 acres with the addition of a parking area and an assembly building.
2. Jacob Meyer of 4225 Route 66, Malden Bridge, NY requesting a Special Use Permit regarding converting the first floor of an existing two story detached structure into a living space which would create a two family residence.

ALL persons interested in these matters will be heard at such time and place specified. Copies of the applications are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on these applications will also be considered if received by the Zoning Board at the address specified on or before November 26th.

On the agenda for a continuation of a Public Hearing is:

1. Special Use Permit Modification for the PS21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Any other matters that come before the Board will also be heard.

Dated November 18, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

NOTICE
ZONING BOARD OF APPEALS
TOWN OF CHATHAM
COLUMBIA COUNTY
NEW YORK

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Chatham will hold a meeting on **Wednesday December 18, 2013 at 7:00 P.M.** at the Town Hall located at 488 Rt. 295 in Chatham. On the agenda for Public Hearing is:

1. Michael A. Polemus of PO Box 204, Old Chatham, NY 12136 requesting an Area Variance to erect an 8 foot high wire deer fence along the same setback as an existing picket fence.
2. Jacob Meyer of 4225 Route 66, Malden Bridge, NY requesting a Special Use Permit regarding converting the first floor of an existing two story detached structure into a living space which would create a two family residence.

ALL persons interested in these matters will be heard at such time and place specified. Copies of the applications are also available at the Town Hall located at the address specified above. (Hours: Monday 9AM- noon and Thursday 2-5 PM or by appointment). Written comments on these applications will also be considered if received by the Zoning Board at the address specified on or before December 18th.

On the agenda for a continuation of a Public Hearing is:

1. Special Use Permit Modification for the PS21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Any other matters that come before the Board will also be heard.

Dated December 9, 2013
David Everett, Chairman
Town of Chatham Zoning Board of Appeals

TOWN OF CHATHAM
DECEMBER 18, 2013

ZONING BOARD OF APPEALS
DRAFT COPY

Members Present:
David Everett, Chairman
Mitchell Khosrova, Dep. Chairman
Robert Leary
Jeffrey Lick
JP Henkel
Adrianus Ooms

Absent:
Kary Jablonka, notified

Public Present:
See attached list

Chairman Everett called the meeting to order at 7:00 PM. The Pledge of Allegiance was recited.

A motion was made by Robert Leary to approve the minutes of the November 26, 2013 meeting. Chairman Everett asked that the minutes reflect that a stenographer was present for this meeting and a copy of the transcript is on file. Adrian Ooms seconded the motion, carried.

Jacob Meyer of 4225 Route 66, Malden Bridge, NY 12115 requesting a Special Use Permit regarding converting the first floor of an existing two story detached structure into a living space which would create a two family residence.

Public Hearing

Mrs. Rosamond Meyer presented certified mailing receipts, a short form SEQR and a letter from an engineer. There are copies of two Certificates of Occupancy for this property on file. JP Henkel clarified with Mrs. Meyer that this project is for a home with two (2) apartments that are not permitted without a Special Use Permit. This building will be converted from a single family to a 2 family residence. Tal Rappleyea commented that a site plan review is not applicable to this project.

JP Henkel made a motion to open the Public Hearing at 7:07 PM. There were no comments from the Public. Mitch Khosrova made a motion to close the Public Hearing at 7:08 PM, seconded by JP Henkel, motion carried.

Jeff Lick questioned whether the proposed action is consistent with the proposed action plan as stated in question number 5 on the SEQR form? The Board agreed that it was. JP Henkel made a motion to adopt the SEQR seconded by Bob Leary, motion carried. Adrian Ooms made a motion to approve the Special Use Permit; Jeff Lick seconded the motion, carried. Mrs. Meyer will send the \$50.00 application fee to the Board.

Michael A. Polemus of PO Box 204, Old Chatham, NY 12136 requesting an Area Variance to erect an 8 foot high wire deer fence along the same setback as an existing picket fence.

Public Hearing

Mr. Polemus provided certified mailing receipts to the Board as well as a letter from the Columbia County Highway Department. He stated that he had two phone calls from neighbors stating that they supported Mr. Polemus' project. One of those neighbors did have a concern that the fence was going to be on their yard. Mr. Polemus noted that it was not. Mitch Khosrova asked Mr. Polemus to explain where the fence would be on the survey map. Mr. Polemus stated that if the location of this fence is an issue he can put the fence back further. Tal Rappleyea noted that a variance on the height of the fence was not required.

Mitch Khosrova made a motion to open the Public Hearing at 7:17 PM, seconded by David Everett, motion carried. It was stated that this application is exempt from a SEQR and Environmental Review. JP Henkel made a motion to close the Public Hearing at 7:18 PM, seconded by Dave Everett, motion carried. Mr. Polemus stated that he would be leaving the white fence up. JP Henkel made a motion to approve a 2 foot variance on the side for the wire deer fence and a 5 foot variance for the front, seconded by Dave Everett. Motion carried. Mr. Polemus will contact the building inspector for any fees owed.

Special Use Permit Modification for the PS21 performance arts facility which is owned by Questaterra, LLC located at 2980 State Route 66.

Continuation of Public Hearing

Chairman Everett opened the continuation of the Public Hearing for PS21 at 7:25 pm. He asked that everyone on the Board and from Crawford and Associates state their name for the stenographer. A written transcript will again be available on file.

The Chairman stated that the Board has received letters from Paul McCreary, the Town Engineer from Morris Associates, Crawford Associates, Acoustic Dimensions, Scott Longstreet, Esq., Patricia Laskey and a dozen or more emails in support of PS 21. Chairman Everett asked Mr. McCreary to discuss his letter to the Board during this hearing.

Ms. Brandee Nelson submitted the receipts for mailing and explained that they have not heard anything from the NYS Department of Transportation regarding entrance or use changes and they do not anticipate having to make those changes. At least a dozen or so calls have been made to Region 8 and there has been no response. She also commented that they received a letter from the fire chief stating that the fire company did not have any concerns but they would like to be kept in the loop regarding the installation of the sprinkler system.

There was discussion regarding a conservation easement letter. A letter from Scott Longstreet, Esq. dated 12/12/13 was read. Town Attorney Tal Rappleyea stated that the first approval was for an apartment only. Also approved were 3 part time residences to be built for the performers. The existing buildings on the property have already been approved. Judy Grunberg stated that there is a converted garage with an apartment on the property and the garage is used for storage in the winter. Chairman Everett asked Ms. Grunberg to provide additional information regarding the white house that is on the property as well.

Brandee Nelson spoke about building alternatives and berms that will be in various locations to help further reduce sound propagation. A model of the new building was displayed showing an entry retaining wall and showing the roof raised by 15 inches. The North berm will be substantial with excavation. The roof overhangs were also extended to minimize the impact on sound. There will be an exterior patio area used during intermissions. There will also be a control room for the electronics. Brandee Nelson stated that they have done some calculations and they may not have to bring any fill in to form the berms. Chairman Everett asked Ken Andria the architect regarding the west side doors being a problem with sound coming out of them during rehearsals. Ken stated that the doors will be closed during the performances and open for loading equipment into the building. Mitch Khosrova asked that a commitment be made to make sure the doors will be closed during performances. JP Henkel asked that this be extended to rentals as well.

Chairman Everett referred to Paul McCreary's letter stating that this building will be better than the current tent making the sound lower and since we don't have decibel levels listed in the Building Code, based on the information we have we have learned a lot since the code was written and since we don't have a noise law.

JP Henkel asked if the report dated 12/11/13 was based on the new design and the increases/decreases were based on the tent. He was informed yes. Bob Leary commented that they are not eliminating noise; they are just decreasing it at the property line. Ken Andria stated that it will be decreased significantly.

Chairman Everett asked Paul McCreary to talk about his letter. Paul stated that there are no issues with SWPPP or the Acoustic Design report. He agrees with the sound level prediction for the property line and commented that they looked again at ENCON's assessing and mitigating noise impacts stating that the state looks at what the ambient sound is. Since this is in an RL-2 zone he gave a scenario if you were to apply what the state uses depicting whether an object has little or no impact. He stated that the sound source would have to be reduced to 6.7 DBA to the southern property line. Since this is a residential neighborhood there is an ambient level that exists there. JP Henkel asked if the applicant would be willing to commit to 98 DBA as a source maximum? Brandee Nelson commented that this would need to be considered. She also referred to page two of Mr. McCreary's letter stating that they have been working very hard to listen to comments made and to work with them.

JP Henkel asked Ms. Nelson how many amplified events does PS21 have? She responded roughly one third (1/3). Mitch Khosrova commented that for over 10 years PS 21 has stated that they want to be good neighbors. They are getting closer to what that means taking into account percussion instruments, etc. We are trying to find a level we can all live with. If you lower the sound source, you take away that noise. Now they need to bring it down to 98DBA. Ms. Nelson commented that they are already showing that with the new design. The Board all agreed that everyone wants to get to an acceptable level. JP Henkel commented that no solution can resolve an issue if a neighbor is choosing to be annoyed as opposed to a genuinely obtrusive noise. He also commented that he was very impressed with the new plan and the amount of mitigation that was accomplished in 3 short weeks.

Brandee Nelson asked that they take a break so she could consult with the members of the PS21 Board as well as Mr. Stoller and Mr. Andria.

The Board took a break at 8:22 pm. The Board resumed at 8:40 pm with the Public Hearing.

Brandee Nelson read the letter from Scott Longstreet, Esq. dated 12/2013 in regards to the current use as a permitted use and that it's the modification that is in front of the Zoning Board. She stated that the Board should also acknowledge that PS21 has brought down the noise level and they are comfortable with the 98 DBA noise level as measured on the floor for sound amplified events. She also stated that they don't want to say that no one will ever hear this though. Mitch Khosrova commented that the Board appreciates what PS 21 has done so far. JP Henkel commented that he wanted to keep this facility inappropriate for a "Guns & Roses" type concert since the houses surrounding this will be there for a long time. Paul McCreary commented that it is highly likely that the RL2 Zone description may not stay if you look into the future with more residents there.

Chairman Everett discussed that during the last meeting it was mentioned about putting into the contracts the decibel levels for performances whether it be professional or rentals. Judy Grunberg stated that they would need to write that into every contract. There was more discussion regarding the decibel levels. JP Henkel noted that the concerns from neighbors are the drone of sound every night, there isn't as much concern with the occasional drum line.

Mr. Stoller noted that the model represents the entire property. Tal Rappleyea stated to identify this as a site model which shows trees and other structures on the property. Chairman Everett asked that Mr. McCreary put together a noise monitoring protocol and send it to the Board and to PS21. JP Henkel commented that he would like to know what happens next and if the Board does decide the decibel number and the math is wrong what do we do? Tal stated that we have also heard that those decibel numbers will bounce around according to wind and humidity, etc. It was suggested that a noise monitoring test be done to give the Board the answers they need.

Chairman Everett read the 2010 conditions for approval numbered 1-35. The following items were noted for any changes; (attached to file)

- #3- put as amended
- #5- change Phase I to Phase II
- #7- obsolete, needs to remove
- #10- obsolete, standpipes are in place
- #13- remove, will be public water supply
- #17- reference revised application, take out DIS
- #18- no longer relevant- Tal stated that he would like to have some background stating that the tent goes away
- #19- change Phase I to Phase II
- #20- change Phase I to Phase II
- #21- Brandee Nelson asked that this remain the same for times; Sun-Thurs 11:00pm, Fri/Sat- 11:30pm
Mitch Khosrova asked that the Sunday- Thursday limit be until 10:30pm and Friday/ Saturday people should be leaving by 11:30 pm. Ms. Nelson asked that there be some flexibility on this to keep it at 5

occasions /events that the times may go over. Mitch asked to define "event". Tal offered that event definition should read "All events where sound is produced needs to end at 10:30 pm. Audience member Sam Reilly and PS21 employee, was concerned that 10:30 may be too early on movie nights. The Board agreed that it should be 10:30pm across the board with 5 events going over that time limit. Bob Leary stated that he believes it should be at 10:30 pm all the time no matter what.

#22- change to 11:00am. No event shall begin prior to 10:30am. The definition of event should be included here.

#23 -obsolete- hope to have indoors

#25- not relevant- no wetlands but the rest is ok

#28- modify schedule B and 5

#29- needs to be revised- need to remove "relate only to Phase II"

#32- if it hasn't been done, provide it

#34- seasonal use clarification- put employees. Leave condition in as modified with site plan approval

#35- stipulate all other conditions apply to them

In reference to a letter received from Patricia Laskey; (attached to file)

#2- add in

#3 -already have

#4- not an enforcement body, if there is a violation it would go to Walt Simonsmeier

#5- contact Walt Simonsmeier

#6- During weddings, people should be permitted to go outside. In the definition of events it should include the hours.

Mitch Khosrova made a motion to close the Public Hearing at 10:03 pm, seconded by Bob Leary, motion carried.

The Board will go through Part II of the EAF. There will be training for the Planning and Zoning Boards on January 7th at 7:00pm. The next meeting will be held on January 23rd at 7:00pm.

With no further business to discuss, Jeff Lick made a motion to adjourn at 10:05 pm, seconded by JP Henkel, motion carried.

David Everett, Chairman

Respectfully submitted,
Barbara A. Fischer, Clerk

MEETING ATTENDANCE SIGN-IN

Meeting Date: December 18, 2013

Committee/Board: ZBA

Please PRINT your name and address clearly to assure the correct spelling in the minutes of this meeting.

1. Rosamond Pope-Meyer
2. MICHAEL A. Poveris P.O. Box 204 DUNELAND NJ 07013
3. KEN ANDRIA 145 HUGUENOT ST #406 NEW ROCHELLE NY 10801
4. Brandee Nelson 551 Warren St Hudson, NY 12534
5. EVAN STOLLER
6. Kathy Wohlfeld 22 High St Chatham 12037
7. Katie Bogdanski Chatham Center
8. Susan Davies 38 Iron Hill Rd CHATHAM NY 12037
9. Sam Reilly 11 Kinderhook st. Chatham NY 12037
10. WILLIAM PARKER 121 RAUP RD CHATHAM NY 12037
11. EDWIN D. PAWLING 121 RAUP RD CHATHAM NY 12037
12. LARRY SALZMAN 721 RT. 5, E. CHATHAM 12060
13. Trudi Roth 721 Route 5, E. Chatham 12060
14. Peter Bankari 119 county rte 61 Chatham 12037

15. Donna Staron 162 Merwin Rd Valatie

16. Francis N. Jurek 86 Elliot Rd, E. Chatham 12060

17. Judy Gruber 83 Silvernail Road Valatie NY 12184